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Comptroller General  
of the United States

306267

Washington, D.C. 20548

## Decision

**Matter of:** International Science & Technology Institute,  
Inc.

**File:** B-258432.2

**Date:** January 26, 1995

### DECISION

International Science & Technology Institute, Inc. (ISTI) protests the terms of the third request for best and final offers (BAFO) by the Agency for International Development (AID) under request for proposals (RFP) No. 623-94-P-008.

The protest is dismissed in part because it merely anticipates improper action that has not yet taken place, and the remainder of the protest is withdrawn.

ISTI's protest here is its second challenge to this AID procurement for technical assistance for Uganda's Investment in Developing Export Agriculture (IDEA) Project. The IDEA project was initially awarded to Chemonics International on September 2, 1994, and ISTI filed a protest with our Office on September 8. After AID reviewed the protest, it terminated the award to Chemonics and requested a third round of BAFOs. ISTI filed an agency-level challenge to the terms of AID's BAFO request, and received a decision denying its agency protest on December 28. This protest followed.

Although ISTI terms this protest as a challenge to AID's decision to request a third round of BAFOs but to limit offerors to identifying changes in their earlier proposed key personnel, its pleadings instead address ISTI's concerns that the agency may not permit it to challenge the evaluation results that initially resulted in selection of Chemonics. In our view, a challenge to the evaluation that resulted in the initial selection of Chemonics--prior to reopening the procurement--is moot; and a challenge to the result of the ongoing evaluation--prior to the time the agency reaches a new selection decision--is premature.

During a January 24 telephone conference with representatives of ISTI, Chemonics and AID, the parties agreed with the assessment of our Office that any challenge to the evaluation here should await the outcome of the evaluation and selection process. Specifically, the parties agreed that, in this case, any challenge to the terms of the third BAFO request would be tied to the evaluation results.

Put differently, if AID ultimately concludes that one of the offerors was unacceptable or should be rejected for some reason that should have been discussed with the offerors prior to the third request for BAFOs, then that issue--and not the request for BAFOs per se--is appropriate for consideration once the agency makes a selection decision. To the extent that the protest alleges that ISTI should have been permitted to modify its third round BAFO to an extent greater than that authorized by the agency prior to the submission of that BAFO, ISTI withdraws its protest.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988). Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Brown Assocs. Mgmt. Servs., Inc.--Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299. However, protests that merely anticipate improper agency action are speculative and premature. See General Elec. Canada, Inc., B-230584, June 1, 1988, 88-1 CPD ¶ 512. Consequently, there is no basis for us to consider the protester's claim at this time. When AID completes this procurement, and takes concrete action that may properly form the basis for a valid bid protest, the protester may file with our Office at that time.

*Christine S. Melody*  
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